

REMARKS

In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and further examination. Claims 1-35 and 37-38 are pending in this application prior to entry of amendments submitted herewith. By amendment herewith, entry of which is requested, Claims 1, 9, 22-25, 31, 32 and 34 are being changed, and Claims 33 and 35 are being cancelled. After entry of these amendments, Claims 1-32, 34 and 37-38 are pending. Claim 1 has been amended to include the limitations of Claim 35 and to recite that both the original value and modified value are machine readable (support for the latter being found in the specification at, *inter alia*, page 2, lines 24-28).

The Examiner has rejected Claims 1-25 and 34-38 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,190,610 by Goldsmith et al. The rejection is traversed. It is noted that rejected Claim 36 of this application was previously cancelled in a Preliminary Amendment.

Goldsmith et al. may teach identifiers in which a portion of the identifier is obliterated by a stimulus, and in particular identifiers that change from a readable to an unreadable state. In particular, Goldsmith et al. teach an identifier having machine-readable components in which one of the components changes from a first readable state to a second unreadable state. Although Goldsmith et al. could be argued to teach an identifier in which the entire identifier changes from a first to a second state identifiable by a reader (e.g., NOT CONTAMINATED state changes to CONTAMINATED state), the identifier relies on a change from a readable to a non-readable state to identify changed states. See, for example, Goldsmith et al. at Col. 11, lines 52-57 and Figs. 10A and 10B. Goldsmith et al. does not disclose an identifier with multiple individual components, at least one of which is configured for being changed from one machine readable value to another machine readable value.

In contrast to the teachings of Goldsmith et al., the identifier recited in Claim 1 has at least two machine-readable components wherein at least one of the said components is configured for being changed from a first machine-readable state to a second machine-readable state in response to a stimulus. This novel feature provides an advantage of

enabling direct control over characters, bars or modules in bar codes or pictographic codes that allows for complex interactions and flexibility between readable states. In addition, new code designs/standards can be described to leverage binary changes more effectively. Other advantages are that the product identified by the codes of the present invention never disappear from the system, flexibility exists in prompting for action at a point of scan in relation to a product containing a present identifier, and links can be established between related item values and actions.

To give a simple example of one use of the present invention, in a store a wine bottle label may bear a bar code, which scans with a certain, readable number, e.g., 300675009775. When the bottle, and hence the label, is in an environment below 10°C, certain portions of the bar code area printed in thermochromic ink change from white to black. For example, a bar which formerly appears as a "thin" bar now appears as a "thick" bar. The bottle now scans with a different readable number, e.g., 300675009515. Although it is the same bottle, the different codes signify qualitatively different items to the store inventory system. A cost differential can thus be applied between the refrigerated item and the ambient-stored item, and the stores inventory system can be configured to immediately inform personnel if a refrigerated stock, for example, needs replenishing. It is important to note that at both temperature ranges both the code and all of its components are readable, thus allowing valuable information about the product to be read from the code.

The identifier as recited in Claim 1 is novel and inventive over the disclosure in Goldsmith et al. Also, dependent claims include all of the limitations of Claim 1 and recite additional features that further distinguish over Goldsmith et al. The rejection based on Goldsmith et al. should be withdrawn.

The Examiner has rejected Claim 32 under 35 U.S.C. 102(b) as being anticipated by DE4303035 by Zahn. The rejection is traversed. The Examiner asserts that, with regard to Claim 32, Zahn discloses an identifier formed by applying a light coloured material over a dark coloured surface such that gaps in the light coloured material form a machine readable code.

Claim 32 now depends from Claim 1, and therefore includes all of the limitations of Claim 1. Zahn does not disclose the identifier recited in Claim 1, with at least two machine readable components, wherein at least one of the components is configured for being changed from an original value to a modified value in response to a stimulus, wherein both the original value and the modified value are machine readable. Zahn does not disclose this identifier recited in Claim 1, and the rejection based on Zahn should be withdrawn.

The Examiner has rejected Claims 26-31 under 35 U.S.C. 103(a) as being unpatentable over Goldsmith et al. in view of U.S. Patent No. 7,098,850 by King et al. This rejection is traversed.

The Examiner admits that, with regard to Claims 26-31, Goldsmith et al. does not disclose the recited features of the identifier including a power source and an electrical circuit; a power source including at least one of a primary electric cell, a secondary electric cell, a photovoltaic device, a piezo-electric device or a capacitor; the identifier including a power antenna and an electrical circuit; a power source formed at least in part formed by printing; a power antenna formed at least in part by printing; or an electrical circuit placed such that it will tend to be disturbed if the package is opened or tampered with.

The Examiner asserts however, that King et al. teach a transponder 10 disposed on a food container (200, 600) having an antenna formed by printing (citing to Figs. 1, 11B and 15A; Col. 6, lines 1+ and Col. 13, lines 30-55 of King et al.). The Examiner then concludes that it would have been obvious to an artisan of ordinary skill in the art to incorporate the teachings of King et al. into the system as taught by Goldsmith et al. with an advanced system for producing a more accurate and faster reading detecting due the RFID/transponder verse barcode, and that such a modification would have been an obvious engineering variation, well within the ordinary skill in the art, for identifying a product condition, and therefore an obvious expedient.

As discussed above, however, Goldsmith et al. do not disclose the identifier recited in Claim 1, which requires at least two machine readable components, wherein at least one of the components is configured for being changed from an original value to a modified value in response to a stimulus, wherein both the original value and the modified value are machine readable. King et al. also do not disclose such an identifier as is recited in Claim

1. Each of rejected Claims 26-31 is ultimately dependent under Claim 1, include the limitations of Claim 1 and recite additional distinguishing features, and are not obvious over Goldsmith et al. and King et al., whether each is taken alone or in any combination.

The rejection based on Goldsmith et al. and King et al. should be withdrawn.

The Examiner has rejected Claim 33 under 35 U.S.C. 103(a) as being unpatentable over Zahn in view of Goldsmith et al. Claim 33 has been cancelled by amendment herewith, thereby mooting the rejection based on Zahn in view of Goldsmith et al.

Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecute and or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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